

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2006 to June 21, 2007**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2007**

**CHAPTER 308**  
**H.P. 284 - L.D. 354**

**An Act Regarding the  
Reporting Requirements of  
Conservators**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 18-A MRSA §5-419, sub-§(a),** as amended by PL 2001, c. 280, §2, is further amended to read:

(a). Every conservator shall account to the court for the administration of the trust as specified by the court at the time of the initial order or at the time of a subsequent order or as provided by court rule and upon resignation or removal. ~~On termination of the protected person's minority or disability, a conservator may account to the court or may account to the former protected person or that person's personal representative. Prior to the termination of the protected person's minority, the conservator shall account to the court and the protected person. Notwithstanding any other duty to render an accounting, a private conservator appointed after January 1, 2008 shall file an annual account with the court for approval. The court, for good cause shown by a conservator who is the spouse or domestic partner of the protected person, may waive or modify the duty to file an annual account. The annual account must be approved by the court before the conservator's obligation to file the annual account ends.~~

Prior to the termination of the protected person's minority, the conservator shall account to the court and the protected person. On termination of the protected person's minority or disability, a conservator shall file a final accounting with the court and that accounting must be approved by the court before the conservator's obligation to account ends. The conservator shall provide a copy of the final accounting to the former protected person or that person's personal representative at the time it is filed with the court.

**Sec. 2. 18-A MRSA §5-430,** as enacted by PL 1979, c. 540, §1, is amended to read:

**§5-430. Termination of proceeding**

The protected person, ~~his~~ the protected person's personal representative, the conservator or any other interested person may petition the court to terminate the conservatorship. A protected person seeking termination is entitled to the same rights and procedures as in an original proceeding for a protective order. The court, upon determining after notice and hearing that the minority or disability of the protected person has ceased, ~~may~~ shall terminate the conservatorship upon approval of a final account. Upon termination, title to assets of the estate passes to the former protected per-

son or to ~~his~~ the former protected person's successors subject to provision in the order for expenses of administration or to conveyances from the conservator to the former protected ~~persons~~ person or ~~his~~ the former protected person's successors, to evidence the transfer.

**Sec. 3. Guardian annual report working group.** The Commissioner of Health and Human Services shall convene a working group consisting of staff from the Department of Health and Human Services, Adult Protective Services and interested parties, including, but not limited to, representatives of registers of probate, Legal Services for the Elderly, Disability Rights Center, attorneys in private practice, members of the public and such other persons as may be necessary to review the need for a practice requiring private guardians to make a detailed annual report to the Probate Court of the financial circumstances of the ward. The working group shall report its findings and recommendations to the Joint Standing Committee on Judiciary by January 11, 2008.

See title page for effective date.

**CHAPTER 309**  
**H.P. 1256 - L.D. 1801**

**An Act To Clarify the  
Definition of Autism**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 34-B MRSA §6002,** as enacted by PL 1983, c. 824, Pt. U, is repealed and the following enacted in its place:

**§6002. Autism defined**

**1. Generally.** Autism refers to a developmental disorder characterized by a lack of responsiveness to other people, gross impairment in communicative skills and unusual responses to various aspects of the environment, all usually developing within the first 30 months of age.

**2. Adult with autism.** An adult with autism is an adult who:

A. Has received a diagnosis that falls within the category of Pervasive Developmental Disorders, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association and as may be updated by rule adopted by the department in response to updates or changes in the Diagnostic and Statistical Manual of Mental Disorders; and

B. Has been assessed as having an adaptive behavior score at a level of functional impairment as determined by the department.

See title page for effective date.

**CHAPTER 310**  
**S.P. 371 - L.D. 1119**

**An Act To Permit Mental  
Health Professionals To  
Disclose Risks to People Likely  
To Be Harmed by a Patient**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 34-B MRSA §1207, sub-§4**, as enacted by PL 1983, c. 459, §7, is repealed.

**Sec. 2. 34-B MRSA §1207, sub-§4-A** is enacted to read:

**4-A. Violation.** Disclosure of client information in violation of this section is an offense under the licensing standards of the mental health professional committing the violation and must be promptly reported to the licensing board with jurisdiction for review, hearing and disciplinary action.

**Sec. 3. 34-B MRSA §1207, sub-§5**, as amended by PL 1995, c. 560, Pt. K, §19, is repealed.

**Sec. 4. 34-B MRSA §1207, sub-§5-A** is enacted to read:

**5-A. Disclosure to family, caretakers.** Under the following circumstances, a licensed mental health professional providing care to an adult client may disclose to a family member, to another relative, to a close personal friend or caretaker of the client or to anyone identified by the client, the client's health information that is directly relevant to the person's involvement with the client's care.

A. If a client with capacity to make health care decisions is either present or available prior to disclosure, the professional may disclose the information:

- (1) When the client gives oral or written consent;
- (2) When the client does not object in circumstances in which the client has the opportunity to object; or
- (3) When the professional may reasonably infer from the circumstances that the client does not object.

B. The professional may disclose the information if in the professional's judgment it is in the client's best interests to make the disclosure and the pro-

fessional determines either that the client lacks the capacity to make health care decisions or an emergency precludes the client from participating in the disclosure.

**Sec. 5. 34-B MRSA §1207, sub-§6**, as enacted by PL 1997, c. 422, §2, is repealed.

**Sec. 6. 34-B MRSA §1207, sub-§6-A** is enacted to read:

**6-A. Disclosure of danger.** A licensed mental health professional may disclose protected health information that the professional believes is necessary to avert a serious and imminent threat to health or safety when the disclosure is made in good faith to any person, including a target of the threat, who is reasonably able to prevent or minimize the threat.

See title page for effective date.

**CHAPTER 311**  
**H.P. 922 - L.D. 1314**

**An Act To Reimburse  
MaineCare in Certain  
Workers' Compensation Cases**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA §14, sub-§2-J** is enacted to read:

**2-J. Authority to contract for attorney services.** The department is authorized to pursue rights under this section, including 3rd-party reimbursement of MaineCare costs in workers' compensation claims cases, through contracted attorney services. The department may adopt rules as necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 39-A MRSA §209, sub-§4** is enacted to read:

**4. MaineCare reimbursement.** MaineCare must be paid 100% of any expenses incurred for the treatment of an injury of an employee under this Title.

**Sec. 3. 39-A MRSA §324, sub-§1**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**1. Order or decision.** The employer or insurance carrier shall make compensation payments within 10 days after the receipt of notice of an approved agreement for payment of compensation or within 10 days after any order or decision of the board awarding compensation. If the board enters a decision awarding compensation and an appeal is filed with the Law Court pursuant to section 322, payments may not be